

STATUTORY REPORT

**DISTRICT ATTORNEY  
DISTRICT 16  
BOGUS CHECK RESTITUTION FUND**

June 30, 2009



*Independently serving the citizens of  
Oklahoma by promoting the  
accountability and fiscal integrity of  
governmental funds.*



Oklahoma State  
Auditor & Inspector  
Gary A. Jones, CPA, CFE

**JEFF SMITH, DISTRICT ATTORNEY  
DISTRICT 16  
STATUTORY REPORT  
BOGUS CHECK RESTITUTION FUND  
JUNE 30, 2009**

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# Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

June 21, 2011

Jeff Smith, District Attorney  
District 16  
LeFlore County Courthouse  
Poteau, Oklahoma 74953

Transmitted herewith is the statutory report for the District Attorney of District 16, LeFlore and Latimer Counties, Oklahoma for the fiscal year ended June 30, 2009.

A report of this type is critical in nature; however, we do not intend to imply that there were not commendable features in the present accounting and operating procedures of the District.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the conduct of our procedures.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and to issue reports that serve as a management tool to the State to ensure a government which is accountable to the people of the State of Oklahoma.

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones".

GARY A. JONES, CPA, CFE  
OKLAHOMA STATE AUDITOR & INSPECTOR

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## **INTRODUCTORY INFORMATION**

The bogus check program was created by the Oklahoma Legislature in 1982 as a special type of deferred prosecution program and every district attorney is required to operate a bogus check program. The program provides an alternative way to handle bogus check cases without any additional cost to courts, prosecutors, or the state prison system. The primary emphasis of the program is collecting restitution for the victim of the crime, rather than punishing the offender.

Bogus checks are a significant cost to business, a cost that is passed on to the consumer and paid by all citizens and taxpayers in the state. The bogus check program has been an effective way to address the economic problem caused by bogus checks. The program offers a way to address criminal conduct without sending a large number of offenders to state correctional facilities.



# Oklahoma State Auditor & Inspector

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## Statutory Report

Jeff Smith, District Attorney  
District 16  
LeFlore County Courthouse  
Poteau, Oklahoma 74953

For the purpose of complying with 74 O.S. § 212 .E and 22 O.S. §§ 114, 991d, and 991f-1.1, we have performed each of the following procedures as they relate to the records of the Bogus Check Restitution Fund for the fiscal year ended June 30, 2009.

- Examine fees to determine that the correct fees were assessed, receipted, and deposited in compliance with 28 O.S. § 153.
- Determine whether expenditures were used to defray lawful expenses of the District Attorney's office and restitution agreements do not exceed three years in accordance with 22 O.S. § 114; whether expenditures were supported by invoices and approved claims; and that goods or services paid for were received.
- Determine whether the fund reconciles to the County Treasurer's records.
- Determine that the District Attorney prepared and submitted an annual report to the District Attorney's Council showing the total deposits and total expenditures; and, that expenditures were properly classified and presented.

All information included in the financial records of the bogus check restitution program is the representation of the District Attorney for their respective district.

Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with auditing standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any general-purpose financial statements of LeFlore and Latimer Counties.

Based on our procedures performed, and with respect to items tested, District 16 was properly assessing, receipting, and depositing the correct fees in compliance with 28 O.S. § 153; expenditures were used to defray lawful expenses of the District Attorney's office and restitution agreements do not exceed three years in accordance with 22 O.S. § 114; expenditures were supported by invoices and approved claims; goods or services paid for were received; the fund balance reconciled to the County Treasurer's records; the District Attorney prepared and submitted an annual report to the District Attorney's Council; and expenditures were properly classified and presented. With regards to the matters of segregation of duties and unclaimed restitution, we have presented our findings in the accompanying schedule of findings and responses.

We have included in this report the Bogus Check Restitution Annual Report prepared by District 16, which was submitted to the District Attorneys Council.

This report is intended for the information and use of the District Attorney and LeFlore and Latimer County officials. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary A. Jones". The signature is fluid and cursive, with a long horizontal stroke at the end.

GARY A. JONES, CPA, CFE  
OKLAHOMA STATE AUDITOR & INSPECTOR

January 5, 2011

**SCHEDULE OF FINDINGS AND RESPONSES**

**Finding 2009-1 – Unclaimed Restitution**

Criteria: Effective internal controls include ledgers maintained in a detailed manner that provides sufficient, accurate information regarding amounts held in trust for others.

Title 22 O.S. § 114.C states:

Restitution paid by the defendant to the victim shall include the face amount of the check plus any charges the victim may have been required to pay to a bank as the result of having received the bogus check. If, instead of paying restitution directly to the victim, the defendant delivers restitution funds to the office of the district attorney, the district attorney shall deposit such funds in a depository account in the office of the county treasurer to be disbursed to the victim by a warrant signed by the district attorney or a member of the staff assigned to the Bogus Check Restitution Program. The district attorney shall keep full records of all restitution monies received and disbursed. These records shall be audited at the same time the county funds are audited.

Title 60 O.S. § 651.9.a states:

"Intangible property" includes: money, checks, drafts, deposits, interest, dividends, and income;

Title 60 O.S. § 657 states:

Intangible property held for the owner by a court, state or other government, governmental subdivision or agency, public corporation, or public authority which remains unclaimed by the owner for more than one (1) year after becoming payable or distributable is presumed abandoned.

Title 60 O.S. § 661.A states:

A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under the Uniform Unclaimed Property Act shall report to the State Treasurer concerning the property as provided in this section.

Condition: At July 1, 2007, an amount totaling \$10,872.02 in merchant restitution was held in the District Attorney's Bogus Check Restitution Fund. This is a cumulative amount from prior administrations as a result of vouchers not cashed by defendants and subsequently cancelled and not being able to locate some defendants.

During the fiscal year ending June 30, 2008, outstanding vouchers of \$3,288.88 were cancelled by the Treasurer because they were outstanding for more than one year. The District Attorney's office could not identify the restitution cases related to this amount. As of June 30, 2008, the amount of unidentified restitution not remitted to victims totaled \$14,160.90.



As of June 30, 2009, the amount of unidentified restitution not remitted to victims increased to \$19,433.69. There are no established procedures in the District Attorney's office to ensure that old cases with balances are researched to remit the restitution to the defendants.

Effect: This condition results in the restitution fund not being properly cleared.

Recommendation: OSAI recommends that victims' restitution funds be remitted to the State Treasurer's office one year after becoming payable in accordance with the Uniform Unclaimed Property Act.

Views of responsible officials and planned corrective actions: We will follow the recommendations set forth by OSAI.

#### **Finding 2009-2 – Segregation of Duties**

Criteria: Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, the duties of receiving, receipting, recording, depositing cash and checks, reconciliations, and transaction authorization should be segregated.

Condition: Based on inquiries of the District Attorney Bogus Check personnel and testwork performed, it was noted that:

- With regards to funds received; receiving, receipting, recording, depositing cash and checks, reconciliations, and transaction authorization within the Bogus Check Office was not properly segregated to assure adequate internal control structure with regards to official depository accounts.
- With regards to funds disbursed; calculating payments, reviewing payments, receiving of goods, writing vouchers, signing vouchers, posting to accounting ledgers, mailing vouchers, authorization for purchases, preparing of claims, and approval of payments within the Bogus Check Office was not properly segregated to assure adequate internal control structure with regards to official depository accounts.

Effect: This condition could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds.

Recommendation: OSAI recommends management be aware of these conditions and realize that concentration of duties and responsibilities in a limited number of individuals is not desired from a control point of view. The most effective controls lie in management's knowledge of office operations and a periodic review of operations. OSAI recommends management provide adequate segregation of duties so that no one person is able to perform all accounting functions. In the event that segregation of duties is not possible due to limited personnel, OSAI recommends implementing compensating controls

to mitigate the risks involved with a concentration of duties. Compensating controls would include separating key processes and /or critical functions of the office.

- Deputy issuing receipts should not prepare the deposit
- Deputy that does not issue receipts or prepare deposit should perform reconciliation
- Deputy preparing vouchers and claims should not be person receiving
- Deputy preparing vouchers and claims or receiving should not be distributing vouchers

Views of responsible officials and planned corrective actions: We will attempt to comply with the recommendation. Budgetary constraints have limited the number of employees but have not decreased the overall workload. Less people are required to do more just to remain functional.

FY09 BOGUS CHECK RESTITUTION ANNUAL REPORT

July 1, 2008 – June 30, 2009

District 16

Please list the county or counties for which this information covers:

LeFlore and Latimer

COLLECTION INFORMATION

Number of checks received from victims 1,887  
Dollar amount of checks received \$142,778.48

RESTITUTION INFORMATION

Beginning Restitution Account Balance at July 1, 2008 \$14,160.90  
Number of Checks on which Restitution was Collected 2,527  
Amount in Restitution Collected for Victims (Do not include cancelled vouchers) \$491,245.29  
Cancelled Vouchers (Restitution cancelled, to be reissued) \$0.00  
Other Collections (Court Costs or other fees paid with restitution, issued to other agencies) \$0.00  
Amount in Restitution Paid to Victims (Including reissuance of cancelled vouchers) \$485,972.50  
Amount in "Other Collections" paid out \$0.00  
Ending Restitution Balance at June 30, 2009 \$19,433.69

FEE AND EXPENDITURE INFORMATION

Beginning District Attorney Fee Balance at July 1, 2008 \$207,991.44  
Amount of District Attorney Fees collected during period \$298,042.52  
Expenditures  
    Personnel Costs \$250,000.00  
    Maintenance and Operations Costs \$56,391.94  
    Travel Expenses \$0.00  
    Other Expenses \$14,331.09  
    Total Expenditures \$ 320,723.03  
Ending District Attorney Fee Balance at June 30, 2009 \$185,310.93

Prepared By: Shana Grank  
Phone#: 918-647-2248

Date: 19-Aug



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